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SUBJECT: SECURITY BUREAU ON REMOVAL OF ZHOU YONGJUN FROM
HONG KONG TO MAINLAND

REF: (A) STATE 113599 (B) HONG KONG 1968 (NOTAL)

Classified By: Acting Consul General Christopher Marut for reasons 1.4
(b) and (d)

¶1. (C) Summary: On a confidential basis, Hong Kong's Security Bureau told the Acting Consul General that Hong Kong Immigration denied entry to a traveler using a false Malaysian passport in the name of "Wang Xingxiang" in September 2008. They had no indication "Wang" was known by any other names, and he presented no travel or identity document indicating citizenship or residency in another country. Based on their investigation, Hong Kong Immigration officers determined "Wang" to be a PRC national, and therefore removed him to the Mainland. Hong Kong implements immigration policy in accordance with the Basic Law and the Hong Kong Immigration Ordinance, and "will not be influenced by any other third parties." End summary.

Legal Standard

¶2. (C) Acting Consul General called on Under Secretary for Security Lai Tung-kiok (Secretary for Security Lee was not available) to deliver ref A points November 9. Lai was joined by Political Assistant Victor Lo Yik-kee. In response to our demarche, Lai told the Acting Consul General that Hong Kong manages immigration policy autonomously in accordance with Article 154 of the Basic Law and the Hong Kong Immigration Ordinance. Persons applying for entry believed to be in possession of false or fraudulently obtained travel documents are investigated. In some cases, evidence is insufficient to prosecute the individual for the use of the false or fraudulent document, and therefore the individual is simply "removed" like any other person denied entry. In such cases, in order to prevent the malafide document from being used again, Hong Kong Immigration generally removes the individual to his point of origin.

¶3. (C) U/S Lai stressed that anyone facing removal is advised of his rights, which include:

- Access to legal counsel, including providing a list of attorneys;
- Access to their consular officials; and
- The right to contact family or friends.

Whether or not the individual chooses to exercise these rights is at his discretion.

The Case of "Wang Xingxiang"

14. (C) Noting that the Zhou Yongjun case had already attracted attention from the Hong Kong Legislative Council, Lai reiterated the Security Bureau's policy not to discuss individual cases. However, on an exceptional basis, and on condition of confidentiality, Lai indicated he could offer the Acting Consul General some additional information about the case of "a gentleman" claiming to be "Wang Xingxiang." Indicating our information about dates of travel was correct, Lai told us Wang Xingxiang was the name of an individual sought by the Hong Kong police in a "deception case" (we assume Lai meant "fraud") involving a "local bank" (according to other reports, Hong Kong's Hang Seng bank). After he was halted by Immigration at the port of entry, "Wang" was investigated by the Hong Kong police, who determined he was not the individual they sought.

15. (C) Having determined that "Wang" was traveling on a false or fraudulent document, Hong Kong Immigration decided to remove him. Lai stressed that "Wang" was advised of the rights noted above. Lai also stressed that, at no point did "Wang" indicate he was known by any other name, such as Zhou Yongjun, nor did he claim citizenship or residence in any other country. "Wang" was not carrying a U.S. "green card," Lai told the Acting Consul General, and if he had been, Immigration would certainly have sought to confirm his identity with the United States.

16. (C) Lai explained that Immigration "understood through various channels" that "Wang" was from the PRC. Lai did not elaborate, and further on in the conversation he ascribed that determination to the results of interviews with "Wang."

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Asked, Lai expressed firm confidence "Wang" was not a Malaysian, but would not say Hong Kong had confirmed that with the Malaysian government. Lai also told us Hong Kong was not in possession of any international warrant or INTERPOL circular regarding Wang Xingxiang. Lai reiterated to the Acting Consular General that Hong Kong Immigration operated on the basis of the Basic Law and Hong Kong law and, in what we took as a clear reference to Mainland authorities, stressed that "we will not be influenced by any third parties."

Comment

17. (C) The short answer from Security Bureau is, we had a traveler using the name "Wang Xingxiang" with a bad Malaysian passport. Absent other identification information, we determined him to be a PRC national, and removed him to the Mainland per standing procedure in false travel document cases we do not intend to prosecute in Hong Kong.

18. (C) Based on what we knew going in, including a telling remark from Hong Kong's Department of Justice that they were not involved in the case, a removal action is likely the only legal means by which Zhou could have found himself at the PRC border. Assuming what Lai told us is the sum total of the facts in the case, while officer discretion may have been involved in decisions (a) that "Wang's" identity would not be checked with Malaysia (which, given that the passport was acquired illegally, would not have helped Zhou avoid removal or likely led to his being sent to Malaysia instead of the PRC); and (b) that "Wang" was in fact a PRC national; the process does not appear to be legally irregular. No collusion is required between Hong Kong and the PRC for Zhou to have been detained by the Mainland following his removal -- based on Lai's recounting, "Wang" was a traveler without identity documents other than a malafide Malaysian passport, and therefore would almost certainly have been investigated by PRC immigration at the border.

19. (C) We feel confident in ruling out Lai having told us a

deliberate falsehood. We do not, and will not, know for certain what Zhou did or did not say about his identity to Immigration. Whether Hong Kong Immigration suspected who Zhou was, Lai was emphatic that they had nothing from either Zhou himself or the documents he was carrying to indicate another identity. We are confident that, had he been carrying a U.S. green card, Hong Kong Immigration would have reached out to us through channels. Finally, we do not know whether, formally or otherwise, there was a discussion with anyone in the PRC about the case during the process leading to Zhou's removal.

¶10. (C) At this point, we do not see a basis for further formal inquiry with the Hong Kong government. We will continue to monitor legal action taken in Hong Kong on Zhou's behalf by his local attorney and by the Legislative Council.
MARUT